

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Stewart Valley Homeowners Association,

Complainant,

v.

SBC Pacific Bell,

Defendant.

Case 03-06-029
(Filed June 24, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
INVITING RESPONSE TO MOTION TO DISMISS**

Complainant represents a small community of 10 homes in eastern California on the border between California and Nevada that is without landline telephone service. It seeks an order requiring SBC California (formerly Pacific Bell) to provide telephone service to the community. (The complaint apparently also seeks an order requiring SBC Nevada to provide the service, but this Commission lacks jurisdiction over SBC service in Nevada.)

SBC California responds that complainant is in an unfiled telephone service territory, and that the closest SBC California telephone facilities are 20 miles southwest of this community. SBC California states that it has advised complainant that it has no plans to file for service in this area.

On July 24, 2003, SBC California moved to dismiss the complaint on the grounds that (1) the Commission cannot require a utility to expand its service into unfiled areas in which it has not dedicated itself (*Houchen v. Pacific Bell*

(1997) 70 CPUC2d 567), and (2) complainant has failed to state an act or thing done or omitted to be done by a public utility in violation of any law, order or rule of this Commission (Rule 9 of the Rules of Practice and Procedure). SBC California states that it has sent complainant copies of all decisions it cites in support of its motion to dismiss.

This ruling invites (but does not require) complainant to file a response to the SBC California motion to dismiss within 30 days of the date of this ruling. Complainant is invited to state the legal underpinnings of its request for a Commission order. Complainant also may seek to rebut the authorities cited by SBC California in its motion.

IT IS RULED that complainant may, but is not required to, file a response to SBC California's motion to dismiss within 30 days of the date of this ruling, with a separate copy of the response served on SBC California and on the undersigned Administrative Law Judge.

Dated: August 8, 2003 at San Francisco, California

/s/ GLEN WALKER

Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Inviting Response to Motion to Dismiss on all parties of record in this proceeding or their attorneys of record.

Dated August 8, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.